

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

IN RE: DIGITEK PRODUCTS LIABILITY LITIGATION

MDL NO. 1968

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THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER # 91**

Pending are the defendants' (1) motion for orders to show cause why certain claims should not be terminated ("motion for orders to show cause") [Docket 621], and (2) motions for partial withdrawal of their motion for orders to show cause ("motions for partial withdrawal") [Docket 622, 623].

The overwhelming majority of the cases in this MDL were settled in September 2010. The Special Master has been working since that time with counsel on both sides to administer the parties' Settlement Agreement and the claims facility. The three pending motions indicate that there are four claimants who, in prosecuting their claims, have failed or refused to comply with certain terms of the Settlement Agreement despite repeated requests that they do so.<sup>1</sup> I retained jurisdiction "to preside over and manage various aspects of the [Settlement] Agreement including, but not limited to, the entry of Orders establishing time frames for the completion of acts defined in the Agreement." (PTO #64 at 1).

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<sup>1</sup> The motions for partial withdrawal assert that three of the original eight claimants for whom orders to show cause were sought have since come into compliance under the Settlement Agreement. Accordingly, I **GRANT** the motions for partial withdrawal.

The circumstances of one additional claimant who has not yet complied, Dorothy Sharp, are being addressed via a separate order entered today. Thus four claimants remain who are now the subject of the defendants' motion for orders to show cause, Joseph Thompson, Richard Wehling, Anita Dunham, and Barbara McCauley.

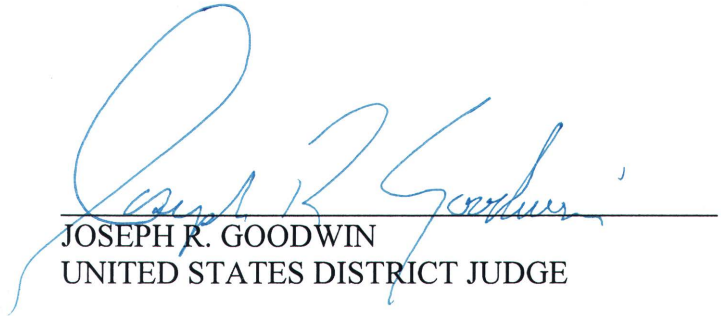
The claimants' counsel have not responded to the motion for orders to show cause. It is uncertain if their respective clients are aware of the defendants' motion for orders to show cause. In order to assure that the best practicable methods have been used to notify the four claimants of the motion for orders to show cause, and in a final attempt to gain the input and cooperation of their counsel, I **ORDER** as follows:

1. That the defendants, no later than March 13, 2013, send copies of the motion for orders to show cause, and this order, to the four claimants and their counsel by certified mail, return-receipt requested, setting forth on the envelope the phrase "TIME SENSITIVE -- IMPORTANT SETTLEMENT INFORMATION FROM THE COURT ENCLOSED;"
2. That the claimants or their counsel show cause in writing no later than March 27, 2013, why the relief requested by the defendants should not be granted; and
3. That in the event the claimants or their counsel fail to respond as directed, the defendants may tender no later than April 10, 2013, a proposed order executed by their counsel that sets forth the chronology of this matter and grants the relief sought in the motion for an order to show cause.

The court **DIRECTS** the Clerk to file a copy of this order in 2-08-md-1968 and it shall apply to each member Digitek®-related case previously transferred to, removed to, or filed in

this district, which includes counsel in all member cases up to and including civil action number 2-11-cv-00425. This order may be accessed through the CM/ECF system or the court's website at [www.wvsd.uscourts.gov](http://www.wvsd.uscourts.gov).

ENTER: March 6, 2013



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JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE